

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

RALPH S. BUCCI d/b/a ENVIRONMENTAL EQUIPMENT & SERVICE COMPANY, Plaintiff.	: : : : : : :	CIVIL ACTION NO. 08-1478
v.	: : :	
WACHOVIA BANK, N.A., Defendant.		

ORDER

AND NOW, this __17TH__ day of June, 2009, it is **ORDERED** that, upon consideration of the Motion of Defendant Wachovia Bank N.A. to Dismiss Certain Counts of Plaintiff's Amended Complaint (Doc. #42) and Plaintiff's reply thereto, Defendant's Motion is **GRANTED** in part and **DENIED** in part as follows:

Plaintiff's claims for fraud (Am. Count II), constructive fraud (Am. Count III), and negligent misrepresentation (Am. Count IV), are dismissed **with prejudice**.

Plaintiff's claims under 13 Pa. C.S.A. § 3307 (Am. Count VII), § 3406 (Am. Count VIII), and § 4401 (Am. Count IX), are dismissed as to checks processed by Wachovia before February 25, 2005, **with prejudice**.

The following counts remain: Negligence (Am. Count I), Breach of Contract (Am. Count V), Breach of Duty of Good Faith and Fair Dealing (Am. Count VI), violation of 13 Pa. C.S.A. § 4406 (Am. Count X), Aiding and abetting (Am. Count XI), and violation of the Uniform Fiduciaries Act, 7 Pa. C.S. §§ 6351, *et seq.* (Am. Count XII).

It is further **ORDERED** that the parties shall submit a joint discovery plan to the Court

with a proposed timetable for merits discovery, dispositive motions, and trial, by July 1, 2009.

s/Anita B. Brody

ANITA B. BRODY, J.

Copies **VIA ECF** on _____ to:

Copies **MAILED** on _____ to: